IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6457of 2004
Date of decision 16.10.2006

Khem Chand .. petitioner

Versus

The Registrar, Cooperative Societies, Haryana, Chandigarh and others
.. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr.RK Gupta, Advocate for the petitioner
Mr. SS Dalal, Advocate for respondent nos 1 to 3

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing order dated 25.8.2003 (Annexure P.4) and partially quashing the order dated 3.12.2003 (Annexure P.12) to the extent that Deputy Registrar, Cooperative societies, Kurukshetra has upheld the rescinding of resolution dated 25.6.2003.

Brief facts of the case are that the petitioner society passed resolution no. 5 dated 25.6.2003 terminating the services of Smt. Saranjit Kaur, a clerk (respondent no.4) working with the petitioner society. She received copy of the resolution dated 25.6.2003. She filed an application under Section 27 of the Haryana Cooperative Societies Act, 1984 before the Deputy Registrar, Cooperative Societies for rescinding the resolution dated 25.6.2003 passed by the petitioner. The Deputy Registrar, Cooperative Societies, stayed the resolution on 27.6.2003 and eventually the application filed by respondent no.4 was allowed on 25.8.2003. The resolution dated 25.6.2003 passed by the petitioner society was set aside by the Deputy Registrar exercising his powers under Section 27 of the Act.

He further directed the Assistant Registrar, Cooperative Societies for issuance of show cause notice for suspension and removal of the Managing Committee of the petitioner after suspending the society. Against the afore-mentioned order, the petitioner filed an application before the Deputy Registrar, Cooperative Societies, for placing on record the written reply and for decision on merits. The application was dismissed on 28.8.2003. Thereafter, the Managing Committee was suspended on 28.8.3003 under Section 34(2) of the Act and Board of Administrator was appointed comprising three Administrators for the management of the affairs of the society under Section 33 of the Act On 2.9.2003, the petitioner filed an appeal under Section 114 of the Act against the order passed by the Deputy Registrar, Cooperative Societies. It is asserted that no stay order was granted on the said application filed by the petitioner society which lead to the filing of CWP No. 14808 of 2003 in this Court. The said petition was disposed of on 18.9.2003 by issuing directions to the Registrar, Cooperative Societies to pass orders on the said application within two weeks.

Eventually the Registrar, Cooperative Societies, stayed the operation of the order passed by the Deputy Registrar, Kurukshetra and issued direction on 23.10.2003 that status quo order was passed by the Registrar , Cooperative Societies. On 9.10.2003, the Administrator of the Society had convened a meeting of the Board of Administrators on 24.10.2003 for deciding agenda items. On 13.10.2003, the Deputy Registrar, Cooperative Societies directed the Administrators to release the salary of respondent no.4, Clerk of the society for the period commencing from 25.6.2003 to 25.8.2003. The appeal filed by the petitioner society was

disposed of on 3.12.2003 by the Registrar, Cooperative Societies and it was partially allowed by setting aside the finding given by the Deputy Registrar in the impugned order dated 25.8.2003 with regard to suspension of the Managing committee. However, the order dated 3.12.2003 in respect of respondent no.4 was upheld. In other words, respondent no. 4 continues to be retained as Clerk as the resolution dated 25.6.2003 was partially rescinded and upheld.

Mr. R.K.Gupta, learned counsel for the petitioner has argued that when the matter came up before this Court, that part of the order passed by the Deputy Registrar, Cooperative Societies was not subject matter of challenge in the writ petition whereby the resolution was rescinded in respect of respondent no.4. According to the learned counsel even appeal before the Registrar, Cooperative Societies under Section 114 of the Act is not provided by the Act and in support of his contention, he has placed reliance on a judgement of this Court in the case of Kular Coop. Agri. Service Society Ltd v. Registrar, Coop. Societies, Punjab 1997(1) PLR 297.

Mr. S.S.Dalal, learned counsel for the respondent has pointed out that when the matter with regard to service of respondent no.4 was alive before this Court, it cannot be said that the case of respondent no.4 was not the subject matter of challenge in the earlier litigation either before this Court or before the Registrar, Cooperative Societies. Learned counsel has further pointed out that an appeal is maintainable under Section 114(e) of the Act before the Registrar, Cooperative Societies against any order passed by the Deputy Registrar, Cooperative Societies under Section 27 which provides for rescinding of resolution passed by the society.

After hearing the learned counsel for the parties, we are of the view that there is no merit in this petition. The argument raised on behalf of the petitioner that no appeal is competent suffers from mis-reading of the judgement in the case of Kular Coop. Agri. Service Society (supra) because the afore-mentioned judgement has considered the provisions of the Punjab Cooperative Societies Act, 1961 which does not provide for appeal as has been stipulated in Section 114(e) of the Act. In the present case there is a specific provision made under Section 114(e) of the Act providing for an appeal before the Registrar, Cooperative Societies against any order passed by the Deputy Registrar, Cooperative society under Section 27 of the Act which deals with rescinding of the resolution passed by the cooperative society. It is evident that the resolution dated 25.6.2003 passed by the society terminating the services of respondent no. 4 was well within the jurisdiction of the Deputy Registrar as he has the power to rescind such resolution passed under Section 27 of the Act. Likewise the Registrar is clothed with the express power to entertain appeal under Section 114(e) in respect of any order passed by the Deputy Registrar under Section 27 of the Act. Therefore, there is no merit in the first contention raised by the learned counsel for the petitioner.

The other contention raised by the petitioner that CWP No. 14803 of 2003 was not directed against the order of the Registrar, Cooperative Societies dated 3.12.2003 (Annexure P.12) would not require any detailed consideration because nothing hinges on the afore-mentioned argument. The order passed by the Registrar in any case does not call for interference and deserved to be upheld. This is apart from the fact that the Division Bench of this Court on 30.9.2003 had passed an order when an

application by counsel appearing for respondent no. 4 was filed in CWP No.14808 of 2003 which shows that the issue was alive before the Division Bench in the earlier proceedings. Be that as it may, we find no merit in the petition.

For the reasons stated above, this petition fails and the same is dismissed.

(M.M.Kumar)
Judge

(M.M.S.Bedi)
Judge

16.10.2006
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